



JAMES H. "JIM" BROWN  
COMMISSIONER OF INSURANCE  
STATE OF LOUISIANA

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DIRECTIVE NUMBER 129

PARTICIPATING POLICIES

IT HAS BEEN BROUGHT TO MY ATTENTION THAT A CLARIFICATION IS NECESSARY REGARDING PARTICIPATING POLICIES. A PARTICIPATING POLICY IS AN INSURANCE POLICY WHICH PROVIDES FOR PARTICIPATION IN THE PROFITS OF THE OPERATIONS OF A STOCK INSURER BY THE PAYMENT OF DIVIDENDS TO POLICYHOLDERS. SUCH A PROGRAM IS CALLED A DIVIDEND PLAN.

THEREFORE, I HEREBY ORDER AND DIRECT THAT:

A DOMESTIC OR FOREIGN STOCK INSURER, IF AUTHORIZED BY ITS ARTICLES OF INCORPORATION, MAY ISSUE PARTICIPATING POLICIES AS FOLLOWS:

1. STOCK PROPERTY AND CASUALTY INSURERS WHICH BY LAW MUST MAKE RATE AND RULE FILINGS WITH THE LOUISIANA INSURANCE RATING COMMISSION, MUST SUBMIT THAT PORTION OF THE DIVIDEND PLAN THAT APPLIES TO THE CALCULATION OF DIVIDENDS TO THE LOUISIANA INSURANCE RATING COMMISSION IN THE SAME MANNER AS A RATE OR RULE FILING. FILINGS TO THE LOUISIANA INSURANCE RATING COMMISSION MUST ADHERE TO ALL LOUISIANA STATUTES AND COMPLY WITH ALL BULLETINS OF THE LOUISIANA INSURANCE RATING COMMISSION. IN ADDITION, ALL PORTIONS OF THE DIVIDEND PLAN THAT APPLY TO THE PAYMENT OR DISTRIBUTION OF DIVIDENDS MUST BE SUBMITTED TO THE CHIEF EXAMINER OF THE DEPARTMENT OF INSURANCE FOR APPROVAL.
2. ALL OTHER COMPANIES MUST SUBMIT THE ENTIRE DIVIDEND PLAN TO THE CHIEF EXAMINER OF THE DEPARTMENT OF INSURANCE FOR APPROVAL.
3. NO DIVIDEND CAN BE DECLARED OR PAID UNTIL THE DIVIDEND PLAN HAS BEEN APPROVED BY THE COMMISSIONER OF INSURANCE.
4. NO DIVIDENDS TO POLICYHOLDERS SHALL BE DECLARED BY THE BOARD OF DIRECTORS OR PAID BY ANY SUCH COMPANY EXCEPT OUT OF ITS EARNED SURPLUS. EARNED SURPLUS SHALL BE DEFINED AS THE PORTION OF SURPLUS THAT REPRESENTS NET EARNINGS, GAINS OR PROFITS, AFTER DEDUCTION OF ALL LOSSES, NOT DISTRIBUTED AS DIVIDENDS OR TRANSFERRED TO STATED CAPITAL OR SURPLUS OR APPLIED TO OTHER PURPOSES PERMITTED BY LAW.

5. NO DIVIDEND SHALL BE MADE CONTINGENT UPON THE PAYMENT OF RENEWAL PREMIUM ON ANY POLICY.
  
6. NO DIVIDEND MAY BE DECLARED OR PAID WHEN THE CAPITAL AND SURPLUS IS LESS THAN THE MINIMUM CAPITAL AND SURPLUS REQUIRED TO TRANSACT BUSINESS OR IF PAYMENT OF THE DIVIDEND WOULD REDUCE THE COMPANY'S CAPITAL AND SURPLUS BELOW ITS REQUIRED MINIMUM.

*Jim Brown*

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